

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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JUNIPER CAPITAL PARTNERS, as Assignee of  
Signature Building Products, LLC,

Plaintiff,

-against-

METRO CONSTRUCTION CORP., also known as  
Grove Construction, and ANGELO NICOSIA,

Defendants.

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**ORDER**

07-cv-3549 (ADS) (ETB)

**APPEARANCES:**

**RICHARD SOKOLOFF**

Attorney for the Plaintiff  
3245 Route 112  
Medford, NY 11763

**NO APPEARANCE:**

The Defendants

**SPATT, District Judge.**

On August 24, 2007, Juniper Capital Partners, as Assignee of Signature Building Products, LLC, (the “Plaintiff”) commenced this diversity action against Metro Construction Corp., also known as Grove Construction, and Angelo Nicosia (collectively, the “Defendants”), seeking recovery for goods sold and delivered to the Defendants in the amount of \$31,390.66.

On December 10, 2007, United States Magistrate Judge E. Thomas Boyle ordered the Plaintiff to show cause on or before December 18, 2007, why the action should not be dismissed for lack of subject matter jurisdiction, due to the absence of the requisite \$75,000 amount in dispute.

On January 8, 2008, Judge Boyle issued a report and recommendation (the “Report”), noting that the Plaintiff failed to respond to the Court’s December 10, 2007 order to show cause. Judge Boyle recommended that this Court dismiss the action for lack of subject matter jurisdiction due to the absence of the requisite \$75,000 in dispute for purposes of diversity jurisdiction. This Court has received no objections to the Report.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. §636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)); see also Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991).

The Court has reviewed the Report and finds it to be thorough and clearly analyzed, with no clear errors of law. The Plaintiff failed to respond to Judge Boyle’s

directive and has not taken any action in this case since filing the complaint in August 2007. Moreover, the Court lacks subject matter jurisdiction because the amount in controversy is less than \$75,000. As such, it is hereby

**ORDERED**, that Judge Boyle's Report and Recommendation is adopted in its entirety; and it is further

**ORDERED**, that the Plaintiff's complaint is dismissed; and it is further

**ORDERED**, that the Clerk of the Court is directed to close this case.

**SO ORDERED.**

Dated: Central Islip, New York  
January 29, 2008

/s/ Arthur D. Spatt  
ARTHUR D. SPATT  
United States District Judge